

**REGULAR CITY COUNCIL MEETING
FRISCO MUNICIPAL COMPLEX
8750 MCKINNEY ROAD
COUNCIL CHAMBERS
FRISCO, TEXAS 75034
5:30 P.M.**

April 1, 2003

MINUTES

1. Call to Order.

Those present were:

Mayor Michael Simpson
Mayor Pro-Tem Reveal
Deputy Mayor Pro-Tem Maso
Council member Allen
Council member Nichols (left the Meeting at 6:30 p.m.)
Council member Lafata
Council member West

Staff present were:

City Manager George Purefoy
Deputy City Manager Henry Hill
Assistant City Manager Jason Gray
Assistant City Manager Scott Young
City Secretary Nan Parker
City Attorney Richard Abernathy
City Engineer Frank Jaromin
Director of Planning & Development Services John Lettelleir

2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code

Deputy Mayor Pro-Tem Maso moved to recess into Closed Session at 5:30 p.m.
Council member Lafata seconded the Motion. Motion carried. Vote: 6-0.

Mayor Simpson announced the City Council was in Closed Session at 5:30 p.m.
as authorized by:

- a) Section 551.087. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.

- b) Section 551.072. To deliberate the purchase, exchange, lease or value of real property located:
 - i south of Eldorado Parkway, north of Stonebrook Parkway, east of Teel Parkway, and west of SH 289.
 - ii south of FM 3537, north of Rolater Road, east of Preston Road, and west Hillcrest Road.
- c) Section 551.074. Evaluation of City Manager.
- d) Section 551.071. Consultation between the City Attorney and City Council where the duty of the City Attorney to City Council pursuant to the Code of Professional Responsibilities of the State Bar of Texas clearly conflicts with the Open Meetings Act regarding negotiations with neighboring cities.

3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session

Council member Lafata moved to reconvene into Regular Session at 6:35 p.m. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 6-0.

4. Invocation.

Gayle Landis from First United Methodist Church offered the prayer.

5. Pledge of Allegiance.

Chris Brumley, Taylor Russell, Tony Thibault, and Trevor Dickens led the audience in the Pledge of Allegiance.

6. Citizen Input

The Council opened the session for Citizen Input at 7:30 p.m.. There was no one present to address the Council.

7. Reports

- 1) CWD Annual Recycling Report
- 2) Planning & Development Monthly Report
- 3) Engineering Services Monthly Report
- 4) Parks and Recreation Monthly Report
- 5) Project Status Tracking Reports

Discussion only, no formal action was taken.

8. Consent Agenda

The Consent Agenda was considered for approval. Mayor Pro-Tem Reveal moved to approve the Consent Agenda. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

- a) Approval of Change Order Number 1 to Osage Aggregates, Inc., in the amount of \$28,347.00 for North County Road. (Engineering)
- b) Adoption of **Resolution No. 03-04-67R** authorizing the City Manager or his designee to execute a retainer Agreement for services of an Associate Municipal Judge. (Administrative)
- c) Approval of Change Order Number 1 for Smith Contractors, Inc., in the amount of \$37,396.00 for Frisco Municipal Complex Restroom Renovation. (Administrative) and adopt **Resolution 03-04-68R**
- d) Approval the approval of the minutes of the Regular City Council Meeting of March 18, 2003. (City Secretary)

END OF CONSENT AGENDA

9. Legislative Agenda

The Legislative Agenda was considered for approval. Deputy Mayor Pro-Tem Maso moved to remove Item 9 (a) for separate discussion. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

Mayor Pro-Tem Reveal moved to approve the Legislative Agenda, excluding item a. Council member Allen seconded the Motion. Motion carried. Vote: 5-0

- a) **Adoption of Ordinance rezoning 20.0± acres on the north side of Fisher Road, 420± feet west of Preston Road from Multifamily-1 to Planned Development – Patio Home. Neighborhood #11. Applicant(s): Douglas Properties, Inc. Zoning Case Z2002-0024 (Planning & Development Department)**

Director of Planning John Lettelleir stated that Jim Douglas, buyer of the property, had requested the item be tabled and a public hearing be conducted at the May 6, 2003 Council Meeting. Mr. Mark Murray, Douglas Properties, Inc. owner, Gaston Avenue, Dallas, Texas requested the Council remand the case back to the P&Z Commission for consideration of rezoning the property to duplex. Mr. Murray stated that Douglas Properties, Inc. has a contractual obligation to try to get the property zoned duplex. Council member Lafata moved to **table the item until later in the meeting**. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Council member Lafata moved to remove the item from the table. Council member Allen seconded the Motion. Motion carried. Vote: 5-0. Following discussion, Council member Allen moved to adopt **Ordinance No. 03-04-23** therein rezoning 20.0± acres on the north side of Fisher Road, 420± feet west of Preston Road from Multifamily-1 to Planned Development – Patio Home. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0. The Council unanimously declared they would not approve duplex zoning on this property at any time.

- b) Adoption of **Ordinance No. 03-04-20** rezoning 1.9± acres located at the northwest corner of Jereme Trail and Coit Road **from** Planned Development-19-Commercial-1 **to** Planned Development-19-Single Family-5. Neighborhood #25. Applicant(s): D.R. Horton. Zoning Case Z2003-0003. (Planning & Development Department)
- c) Adoption of **Ordinance No. 03-04-21** rezoning 1.0± acre located 700± feet west of Blue Grass Trail and 500± feet north of Main Street **from** Planned Development-134-Office-1 **to** Single Family-4. Neighborhood #44. Applicant(s): Paragon/Tower 720, L.P. & William L. Anderson. Zoning Case Z2003-0004. (Planning & Development Department)
- d) Adoption of **Ordinance No. 03-04-22** amending the Comprehensive Zoning Ordinance regarding the definition and regulation of **home occupations**. Comprehensive Zoning Ordinance Amendment ZA2002-0023. Applicant(s): City of Frisco. (Planning & Development Department)

END OF LEGISLATIVE AGENDA

Regular Agenda:

10. APPEAL - Public Hearing: Sign Variance V2003-0002. A request for a variance to the requirements for a wall sign on one lot on 6.6+ acres located 200+ feet west of Gaylord Parkway, 1,200+ feet south of Warren Parkway (2801 Network Boulevard). Neighborhood #34. Zoned Planned Development-59-Business Center. Applicant(s): Hall 2801 Network Associates, Ltd. & Fujitsu Transaction Solutions. (Planning & Development Department)

The applicant submitted a letter requesting to withdraw the appeal of the Planning and Zoning Commission's denial. Deputy Mayor Pro-Tem Maso moved to approve the variance for the sign. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Deputy Mayor Pro-Tem Maso moved to rescind the motion. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Deputy Mayor Pro-Tem Maso moved to open the Public Hearing. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

Deputy Mayor Pro-Tem Maso moved to close the Public Hearing. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Deputy Mayor Pro-Tem Maso moved to approve the sign variance. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

11. Public Hearing: Involuntary Annexation Case IA2003-0001 - Second public hearing for citizen input regarding the involuntary annexation of 174.2+ acres on the east side of Legacy Drive, 445+/- feet north of Town & Country Blvd, a.k.a. the Stonebriar Creek subdivision. Neighborhood #34. (Planning & Development Department)

Mayor Pro-Tem Reveal moved to open the Public Hearing. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Nick Camp was present to speak in favor of the request.

Richard Abernathy stated the property is contiguous to the existing city limits, is located within the City's ETJ and is eligible for annexation into the City Limits. The Service Plan was available for public inspection. Mayor Pro-Tem Reveal moved to close the Public Hearing. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

No action was taken pending the adoption of the ordinance.

12. Public Hearing: Involuntary Annexation Case IA2003-0008 - Second public hearing for citizen input regarding the involuntary annexation of 2.0+ acres on the south side of C.R. 112 (future Lebanon Road), 600+/- feet east of Independence Parkway. Owned by Redi-Mix, L.P. Neighborhood #27. (Planning & Development Department)

Council member Allen moved to open the Public Hearing. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

There being no one present to speak for or against the request, Mayor Pro-Tem Reveal moved to close the Public Hearing. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Richard Abernathy stated the property is contiguous to the existing city limits, is located within the City's ETJ and is eligible for annexation into the City Limits. The Service Plan was available for public inspection.

No action was taken pending the adoption of the ordinance

13. Public Hearing regarding amending the project plan and financing plan, and boundaries for Reinvestment Zone Number One, City of Frisco, Texas. (City Manager's Office/JG)

Assistant City Manager Jason Gray was present to address the Council. He stated that they would take public input this evening. The financing plan provided for eight school sites to the TIF and to bring the public land, including the stadium, 17 fields, parking around the stadium into the boundaries.

Council member Lafata moved to open the Public Hearing. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

There being no one else present to speak for or against the request, Council member Allen moved to close the Public Hearing. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0. .

14. Consider and act upon a request from Southwest Sports Group to reduce amount of property pledged for guarantee for lease payments for baseball field and arena. Tabled 3/18/03 (City Manager)

Mayor Pro-Tem Reveal moved to remove the item from the table. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

Mayor Pro-Tem Reveal stated that she would like to recess into Closed Session for consultation with the City Attorney.

Council member Lafata moved to recess into Closed Session at 8:30 a.m. Section 551.071 to consult with City Attorney. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Mayor Simpson announced the Council was in Closed Session at 8:30 p.m. to consult with City Attorney regarding Items 14. and 9 (a).

Deputy Mayor Pro-Tem Maso moved to reconvene into Open Session at 8:50 p.m. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

Following discussion, Deputy Mayor Pro-Tem Maso moved to accept the \$12.87 per square foot appraisal for the property and for the purpose of the guarantee in the Development Agreement with Southwest Sports Group provided the property was rendered to the Collin County Central Appraisal District at \$14.90 per square foot: Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

15. Adoption of Resolution No. 03-04 69R authorizing the City Manager to execute an Agreement by and between the City of Frisco, Texas and the Frisco Economic Development Corporation concerning Certificates of Obligation for Development of Soccer Complex and Related Improvements. (City Manager)

Council member Allen stepped down from the table due to a potential conflict of interest as Member of the FEDC.

Assistant City Manager Scott Young addressed the Council regarding the financing of the Soccer Complex and Related Improvements.

Robert Chambers 6097 Star Drive asked if there are any circumstances in which the Citizens of Frisco could become obligated to make any type of payment. .

Deputy Mayor Pro-Tem Maso moved to approve the request. Council member Lafata seconded the Motion. Motion carried. Vote: 4-0. Council member Allen had stepped down from the table and did not vote.

16. Approval of owner-architect agreement and addendum to retain Phelps/Woods Architects for the City of Frisco Central Fire Station Project and adoption of Resolution No. 03-04-70R authorizing the City Manager to execute same. (Fire Department)

Fire Chief Mack Borchardt was present to address the Council regarding the construction of the (new) Central Fire Station Complex.

Chief Borchardt stated that he and his staff had visited with all of the neighbors that surround Central Fire Station and the proposed Central Fire Station Project. He stated that all those they had spoken to had no problems with the construction of the new site and renovation of the old site.

Council member Lafata moved to adopt **Resolution No. 03-04-70R** therein approving and authorizing the City Manager to execute the owner-architect agreement and addendum to retain Phelps/Wood Architects for the City of Frisco Central Fire Station Complex. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

17. Approval of report from consultant concerning Flexible Corrugated Stainless Steel Gas Piping System from City Attorney's office or review findings of independent study conducted by Hurst Metallurgical evaluating black steel gas pipe and Corrugated Stainless Steel Gas Piping System. (Fire Department)

Fire Chief Borchardt and City Attorney Richard Abernathy reviewed the report received on April 1, 2003. Mayor Simpson asked the Council if they had any questions of Chief Borchardt.

Art Anderson was present to address the Council regarding the report. Mr. Anderson presented the Council a list of other Texas cities that have approved Gastite CSST. Mr. Anderson stated that he requested on behalf of his client they be allowed to begin to construction in Frisco tomorrow.

Assistant Fire Chief Don Fernandez was present to address the Council. He stated that he contacted Hurst Metallurgical Research Laboratory in February and presented damaged lines that had been the point of origin. Mr. Fernandez stated that Hurst contacted him on March 31, 2003 and requested additional damaged product to evaluate.

City Attorney Richard Abernathy stated the issue has been and continues to be is the product (Flexible Corrugated Stainless Steel Gas Piping System) and lightning strikes and structure (residential) fires.

Chief Borchardt stated that the report calls into question the safety of the flexible corrugated stainless steel gas piping systems. He (Borchardt) stated that he had only asked one other time that a product not be used in Frisco because of safety concerns and that was regarding wooden (roof) shingles. He reiterated that he is concerned that the homes that had suffered lightning damage had CSST installed.

No action was required on this item.

18. Adoption of Ordinance No. 03-04- prohibiting the use of the Flexible Corrugated Stainless Steel Gas Piping Systems. Tabled from 12/17/02 and 3/18/03 (Fire Department)

Mayor Pro-Tem Reveal moved to remove the item from the table. Council member West seconded the Motion. Motion carried. Vote: 5-0.

Art Anderson stated to the Council that he had not had time to review the report. He stated to the Council that if they acted on a moratorium on the use of the Flexible Corrugated Stainless Steel Gas Piping Systems the City would be subjected to a multi-million dollar lawsuit.

Mayor Pro-Tem Reveal moved to recess into Closed Session at 10:00 p.m. as authorized by L.G.C. Article 551.071 Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Mayor Pro-Tem Reveal moved to reconvene into Regular Session at 10:25 p.m. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Mayor Pro-Tem Reveal moved to adopt the **Ordinance No. 03-04-24** therein prohibiting the use of the Flexible Corrugated Stainless Steel Gas Piping Systems. Council member West seconded the Motion. Motion carried. Vote: 5-0.

19. Adoption of Resolution No. 03-04-71R authorizing the pledge of \$125,478 in local funds and \$50,000 in cash reserves in support of a \$100,000 grant application to Texas Department of Housing and Community Affairs (TDHCA) for the HOME homebuyer assistance program and authorization for the city manager to submit the grant.

Deputy City Manager Henry Hill addressed the Council regarding a grant application to Texas Department of Housing and Community Affairs for the HOME homebuyer assistance program.

Bob Chambers was present to address the Council in opposition of the pledge of public funds. Mr. Chambers stated that he felt that the City Council should not have a select group of City of Frisco employees and/or Frisco ISD employees to qualify for the program. He requested the council remove the bonus points for City Employees and Frisco ISD employees and treat everyone the same.

Janet McCubbin, Dr. Jim Joyner and Kathy Seei were present to speak in favor of the application for the grant.

Following discussion, Council member Allen moved to Adopt **Resolution No. 03-4-71R** therein authorizing the pledge of \$125,478 in local funds and \$50,000 in cash reserves in support of a \$100,000 grant application to Texas Department of Housing and Community Affairs (TDHCA) for the HOME homebuyer assistance program and authorization for the city manager to submit the grant. Council member West seconded the Motion. Motion carried. Voting Aye:

Voting Nay: Council member Lafata. Motion carried. Vote: 4 – 1.

20. Adoption of Resolution No. 03-04-72R of the second addendum to the City of Frisco Board of Directors of Reinvestment Zone Number One and the Frisco Independent School District Agreement to participate in the Frisco Tax Increment Reinvestment Zone Number One. Tabled 3/18/03(City Manager's Office/JG)

Mayor Pro-Tem Reveal moved to remove the item from the table. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Jason Gray reviewed the second addendum funding mechanism from Frisco ISD to participate in the Frisco Tax Increment Reinvestment Zone Number One.

Mayor Pro-Tem Reveal moved to adopt **Resolution No. 03-04-72R** therein approving and authorizing the City Manager to execute the second addendum to the City of Frisco Board of Directors of Reinvestment Zone Number One and the Frisco Independent School District Agreement to participate in the Frisco Tax Increment Reinvestment Zone Number One. Council member West seconded the Motion. Motion carried. Vote: 5-0.

21. Adoption of Resolution No. 03-04-73R of the first addendum to the City of Frisco, Board of Directors of Reinvestment Zone Number One, and Collin County Agreement to participate in the Frisco Tax Increment Reinvestment Zone Number One. Tabled 3/18/03 (City Manager's Office/JG)

Council member Lafata moved to remove the item from the table. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Jason Gray reviewed the second addendum funding mechanism from Collin County.

Council member Allen moved to adopt **Resolution No. 03-04-73R** therein approving and authorizing the City Manager to execute the first addendum to the City of Frisco, Board of Directors of Reinvestment Zone Number One, and Collin County Agreement to participate in the Frisco Tax Increment Reinvestment Zone Number One. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

22. Adoption of Resolution No. 03-04-74R authorizing the City Manager to execute a Development Agreement by and between the City of Frisco and Dallas Soccer, L.P. for a soccer complex and related improvements. Tabled 3/18/03 (City Manager's Office/SY)

Council member Lafata moved to remove the item from the table. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Scott Young was present to address the Council regarding the Development Agreement by and between the City of Frisco and Dallas Soccer, L.P. Mr. Young introduced several individuals who were involved in the development of the agreement.

Mayor Pro-Tem Reveal to adopt Council member West seconded the Motion. Motion carried. Vote: 5-0.

23. Adoption of Resolution No. 03-04-75R authorizing the City Manager to execute a Lease Agreement by and between the City of Frisco and Dallas Soccer, L.P. for a soccer complex. Tabled 3/18/03 (City Manager's Office/SY)

Council member Lafata moved to remove the item from the table. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Scott Young reviewed the Lease Agreement with the Council.

Deputy Mayor Pro-Tem Maso moved to approve. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

24. Adoption of Resolution No. 03-04-76R authorizing the City Manager to execute an Interlocal Joint Use and Development Agreement by and between the City of Frisco and Frisco Independent School District. Tabled 3/18/03 (City Manager's Office/SY)

Mayor Pro-Tem Reveal moved to remove the item from table. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Scott Young updated the Council on the Frisco ISD's funding obligations, etc.

Council member Lafata moved to adopt **Resolution No. 03-04-76R** therein authorizing the City Manager to execute an Interlocal Joint Use and Development Agreement by and between the City of Frisco and Frisco Independent School District. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

25. Adoption of Resolution No. 03-04-77R authorizing the City Manager to execute an Interlocal Joint Use and Development Agreement by and between the City of Frisco and Collin County. Tabled 3/18/03 (City Manager's Office/SY)

Mayor Pro-Tem Reveal moved to remove the item from the table. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Assistant City Manager Scott Young stated that there will be a Letter Agreement entered into between Collin County and Dallas Soccer, L.P. for the use of the fields by the youth of Frisco and Collin County.

Mayor Pro-Tem Reveal moved to adoption of **Resolution No. 03-04-77R** therein approving and authorizing the City Manager to execute an Interlocal Joint Use and Development Agreement by and between the City of Frisco and Collin County. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

26. Adoption of Resolution No. 03-04-78R authorizing the City Manager to execute the Amendment to A.I.A. Agreement by and between the City of Frisco and Lee Lewis Construction, Inc. establishing the Guaranteed Maximum Price of \$2,174,330.00 for the Frisco Square - Senior Center. (City Manager's Office/SY)

Billy Ray Johnson was present to address the Council regarding the Amendment to the A.I.A. Agreement between the City of Frisco and Lee Lewis Construction for the Guaranteed Maximum Price of \$2,175,330.00 for the Senior Center.

Following discussion, Mayor Pro-Tem Reveal moved to approve. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

27. Approve of agreement with Tenet for acquisition of drainage easement. (City Manager)

Mayor Pro-Tem Reveal moved to adopt **Resolution No. 03-04-80R** for the acquisition of drainage easement agreement with Tenet subject to negotiations approved by the City Manager and City Attorney. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

28. Adoption of Resolution No. 03-04-79R authorizing the City Manager to execute an Agreement by and between the City of Frisco, Texas and the Frisco Community Development Corporation concerning Certificates of Obligation for Development of Soccer Complex and Related Improvements. (City Manager)

Assistant City Manager Jason Gray updated the Council on the funding obligations from the Frisco Community Development Corporation for \$5,000,000.00 in debt.

Dr. Jim Joyner, Chairman of the Community Development Corporation, was present to address the Council speaking in favor of the request.

Council member Allen moved to adoption of **Resolution No. 03-04-79R** therein approving the Agreement by and between the City of Frisco and Frisco Community Development Corporation concerning Certificates of Obligation for Development of Soccer Complex and Related Improvements. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

29. Direct staff to submit a written notice of appeal on behalf of the City Council to the Planning & Development Department, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to the Planning & Development Department.

There were no appeals by the City Council of the approve plats.

30. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.

- Rick Wieland response on hockey ice time
- Groundbreaking on Senior Citizens Center

31. Discussion on Governance Monitoring of present City Council Meeting.

Discussion only, no formal action was taken.

32. Adjourn.

There being no additional business, the meeting was adjourned at 11:12 p.m.

E. Michael Simpson, Mayor

ATTEST:

Nan Parker, City Secretary